

The State Vs. Mool Chand

The State Vs. Mool Chand

SooperKanoon Citation : sooperkanoon.com/457868

Court : Allahabad

Decided On : Jan-31-1957

Reported in : AIR1957All343; 1957CriLJ615

Judge : Raghubar Dayal and ;Asthana, JJ.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 7, 16, 20 and 25(2);
Uttar Pradesh Pure Food Act, 1950 - Sections 34

Appeal No. : Government Appeal No. 186 of 1957

Appellant : The State

Respondent : Mool Chand

Advocate for Pet/Ap. : Rama, Deputy Government Adv.

Disposition : Appeal dismissed

Judgement :

Raghubar Dayal, J.

1. This is a State Appeal against the acquittal of Mool Chand of an offence under Section 16 read with Section 7 of the Prevention of Food Adulteration Act (XXXVII of 1954) by the Sessions Judge of Tehri-Garwal who allowed his appeal against his conviction by a Magistrate.

2. The alleged offence was committed on the 21st of July, 1955. The prosecution was launched by the Assistant Medical Officer of Health prior to the enforcement of the rules made by the State Government under this Act. The Assistant Medical Officer of Health could not institute a complaint against anyone in view of Section 20 of the Act. The State Government had not authorised him by that date to prosecute any person for an offence under this Act. It is clear, therefore, that the court could not have taken cognizance of this offence and that, therefore, the acquittal of the respondent is correct.

3. It is contended for the State that Food Inspector could launch a prosecution under the repealed U. P. Pure Food Act (XXXII of 1950) and that the State Government had by its notification dated 5-2-1953 appointed Assistant Medical Officers of Health Food Inspectors under that Act and that by virtue of Section 25(2) of the Prevention of Food Adulteration Act of 1954 the power which these Assistant Medical Officers of Health as Food Inspectors exercised with respect to the prosecution of persons contravening the provisions of the U. P. Pure Food Act and rules thereunder, could be exercised by them under the Prevention of Food adulteration Act of 1954. We do not agree with this contention.

Food Inspectors appointed under U. P. Pure Food Act of 1950 were conferred the power to prosecute by the Act itself. Section 34 empowered them to prosecute. Food Inspectors did not derive this power under any rules. When Section 34 of the Act was repealed in view of the repeal of the entire Act, this power of the Food Inspectors came to an end. The notification appointing Health Officers and others to be Food Inspectors may serve the purpose of appointing them Food Inspectors under the Prevention of Food Adulteration Act, but this notification neither gave them the power to prosecute under the U. P. Pure Food Act nor can it be deemed to confer this power under the Prevention of Food Adulteration Act. We, therefore, hold that the prosecution by the Assistant Medical Officer of Health of the respondent was bad in law

4. We, therefore, dismiss this appeal summarily.